

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 17**

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO DISTRICT 70 AND LOCAL LODGE 839
(SPIRIT AEROSYSTEMS)**

and

Case 14-CB-133028

RYAN KASTENS, an Individual

and

SPRINT AEROSYSTEMS

**ORDER REFERRING PETITION TO REVOKE
SUBPOENAS DUCES TECUM TO ADMINISTRATIVE LAW JUDGE**

A Petition to Revoke Subpoena Duces Tecum B-1-KUHZMR and Subpoena Duces Tecum B-1-KUH577 having been filed with the Regional Director on January 27, 2015, by Counsel for Respondent,

IT IS ORDERED, pursuant to Section 102.31(b) of the Board's Rules and Regulations, that the Petition is hereby referred to the Administrative Law Judge for ruling.

Dated: January 28, 2015

DANIEL L. HUBBEL
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 14, BY:

/s/ Naomi Stuart

NAOMI STUART
OFFICER-IN-CHARGE
NATIONAL LABOR RELATIONS BOARD
SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 14 (SUBREGION 17)**

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO, DISTRICT 70 and LOCAL LODGE 839
(Spirit AeroSystems)**

And

Case 14-CB-133028

RYAN KASTENS, an Individual

And

SPIRIT AEROSYSTEMS, INC.

RESPONDENTS' PETITION TO REVOKE IN PART SUBPOENAS DUCES TECUM

Respondents International Association of Machinists and Aerospace Workers, AFL-CIO, District 70 and Local Lodge 839 (referred to jointly as *Respondents* or *the Union*) file this Petition to Revoke in Part Subpoenas Duces Tecum issued at the request of Charging Party on January 21, 2015, and show the following:

Introduction

The Charging Party, Ryan Kastens (*Kastens*), has charged that the Union violated Sections 8(a)(3), (b)(1)(A) and (b)(2) of the National Labor Relations Act by failing to properly represent Kastens for reasons that are arbitrary, discriminatory or in bad faith, allegations which the Union denies. On January 21, 2015, two subpoenas duces tecum were issued at the request of Kastens. Those subpoenas were served on the Union on January 23, 2015. A true and correct copy of each subpoena is attached hereto as Exhibits 1 and 2, respectively.

Objections And Argument

I. NLRB Rules and Regulations Section 102.31(B)

Section 102.31(b) of the National Labor Relations Board's Rules and Regulations provides that:

Any person served with a subpoena, whether ad testificandum or duces tecum, if he does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena upon him, petition in writing to revoke the subpoena. The administrative law judge or the Board, as the case may be, shall revoke the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid.

See also National Labor Relations Board Case Handling Manual § 11782. For the reasons set forth below, the subpoena duces tecum should be revoked in part under the National Labor Relations Act, the Board's Rules and Regulations, the Case Handling Manual, Board policy and other reasons required by law.

II. General Objections

The following general objections are asserted to each and every individual category of documents enumerated in the subpoenas, as well as to the subpoenas in its entirety. Each of these general objections is incorporated by reference in the individual responses to each category set forth in Section III below.

The Union states that to the extent that it has not responded to any specific requests, enumerated below, or any part thereof, such omission may not be taken as an admission that the Union accepts or admits the existence of any facts set forth or assumed by the subpoenas. The fact that the Union has answered part or all of the requests is not intended and shall not be

construed to be a waiver by the Union of all or any part of the objection to part or all of any requested category of documents. Nothing contained herein shall be construed as an admission with respect to the existence or nonexistence of any document. No explicit or implied admissions whatsoever are intended by this petition to revoke.

The Union objects to the subpoenas on the grounds that some of the requests seek information protected by the right of privacy and confidentiality of both the labor organization and various individuals who are not parties to this action. Any agreement by the Union to produce documents in response to the subpoenas shall not constitute a waiver of this objection, and all documents produced shall be redacted where appropriate to preserve such privacy and confidentiality rights.

II. Specific Objections

A. Subpoena Issued to District Lodge 70 and Local Lodge 839

Requests Nos. 3, 6 and 7. Request No. 3 seeks all documents describing or memorializing all Union meetings, both internal and with the Employer, concerning grievances filed by or on behalf of Kastens. The request specifically calls for the Union's written communications and meetings notes. Request No. 6 seeks all documents obtained during any investigation by the Union into grievances filed by or on behalf of Kastens, specifically requesting Respondent's investigatory notes. Request No. 7 is a broad, catch-all request which seeks "all documents relied on by Respondents in processing Ryan Kastens suspension and discharge grievances".

The Union first asserts attorney-client privilege in that these requests seek disclosure of communications between the Union and its counsel, including in-house and outside counsel, regarding these proceedings. The Union also asserts protection for privileged work product such

as counsel's notes and research regarding this lawsuit, and documents prepared for these proceedings under the direction of counsel. The Union withholds any documents or communications protected by the attorney-client and the attorney work product privileges.

Further, the Union asserts the union investigation and communications privilege and withholds any documents protected by that privilege. This privilege protects communications and work product made or created by the Union and its officials during any internal investigation related to these proceedings.

The Board has held that an employer's demand to discover confidential communications between an employee and his union representative made during the grievance process interferes with the employee's right to union representation under the NLRA and therefore will not be enforced. *See Cook Paint and Varnish Co.*, 258 NLRB 1230 (1981). State agencies have followed this reasoning to hold that unions were not required to disclose their investigatory notes to employers for use in labor arbitrations. *See, e.g., IBEW, Local 77*, No. 15544-U-00-3932, 2003 WL 21658695 (Wash. Pub. Employment Relations Comm'n 2003); *N.H. Troopers Ass'n v. N.H. Dep't of Safety*, No. P-0754:2, PELRB Decision No. 94-74 (N.H. Pub. Employee Relations Bd. August 31, 1994), <http://www.nh.gov/pelrb/Decisions/1994/94-74.pdf>.

Case law and Board law support the application of such a union investigation and communication privilege in any adversarial context. In *NLRB v. Robbins Tire Co.*, 437 U.S. 214 (1978), the United States Supreme Court held that an employer could not obtain investigatory affidavits from potential witnesses under the Freedom of Information Act. In reaching this result, the Court was concerned with the chilling effect that disclosure might have on potential witnesses, as well as the possibility that disclosure would expose witnesses to intimidation.

Furthermore, state courts have recognized the vital importance of this privilege throughout the spectrum of labor relations. As one New York judge stated in *Seelig v Shepard*:

If unions are to function, leaders must be free to communicate with their members about the problems and complaints of union members without undue interference. Members must be able to have confidence that what they tell their representatives on such subjects cannot be pried out of the representatives by an overzealous governmental agency. Union members must know that and be secure in feeling that those whom they elect from among their ranks will be their spokespersons and representatives, not the unwilling agents of the employer. The union leadership councils must be free to confer among themselves, exchange views, make plans and arrive at negotiating strategies without intrusion from the organs of official power.

578 N.Y.S.2d 965 at 967 (Sup. Ct. 1991). *See also Illinois Educ. Labor Relations Bd. v. Homer Cmty. Consol. Sch. Dist. No. 208*, 132 Ill. 2d 29, 547 N.E.2d 182 (1989).

The union investigation and communications privilege is certainly applicable in the extant case, which involves an alleged violation of the duty of fair representation. As Mitchell Rubinstein explained:

The law recognizes that unions are entitled to extreme deference when their judgment is second guessed in a duty of fair representation lawsuit brought by an unhappy unit member. Therefore, **unions need to be able to freely consult with their members and officials in confidence. They must be able to rely on the fact that such discussions will not be disclosed to a dissenting member who may file a lawsuit against the union. Any other rule would chill legitimate union activity.**

Mitchell H. Rubinstein, *Is A Full Labor Relations Evidentiary Privilege Developing?*, 29 Berkeley J. Emp. & Lab. L. 221, 258 (2008) (emphasis added) (internal citations omitted).

These subpoena requests seek, among other documents, investigatory notes prepared by the Union during past grievance procedures and in preparation for these proceedings. In order to protect the relationship between the Union and its members, and to allow for the Union to effectively perform its statutory duty as representative of its members, the Board should not require the Union to disclose such privileged documents and communications. The same is true

of any requests for documents discussed below in which the Union invokes the union investigation and communications privilege.

Requests Nos. 8, 9 and 10. Request No. 8 seeks all documents describing, constituting or memorializing all communications between the Union and Kastens. Request No. 9 seeks all documents describing, constituting or memorializing all communications between Howard Johnson and the Employer concerning Ryan Kastens. Request No. 10 seeks all documents describing, constituting or memorializing all communications between Howard Johnson and the Employer concerning Jarrod Lehman.

Documents “describing” or “memorializing” communications between the Union and Kastens, or between Johnson and the Employer, may constitute protected attorney-client communications, attorney work product or protected union investigations and communications. Accordingly, the Union asserts attorney-client privilege and the attorney work product privilege and withholds any documents or communications protected by those privileges. Further, the Union asserts the union investigation and communications privilege and withholds any documents protected by that privilege.

The Union also objects to Request No. 8 on the grounds that the request is overly broad and unduly burdensome, and it fails to describe the documents sought with reasonable particularity. The Board’s Case Handling Manual § 11776 provides that “a subpoena duces tecum should be drafted as narrowly and specifically as is consistent with the ends sought. It is desirable that the use of the word ‘all’ in the description of records be avoided whenever possible.” In this case, the term “all communications” between the Union and Kastens would include communications that are not related to Kastens’s grievances, his status as an alleged union dissident, or any other matter germane to these proceedings. Accordingly, the request is

overly broad on its face, and to the extent that any documents requested may be relevant to these proceedings, Respondent should be directed to narrow the subpoena as required by the Case Handling Manual.

Requests Nos. 11 and 12. Request No. 11 seeks all documents constituting or memorializing “reports of a potential violation of the Employer’s policies received by Howard Johnson” during the subpoena’s time range. Request No. 12 seeks all communications between Howard Johnson and the Employer concerning “a potential violation of the Employer’s policies.”

The Union objects to these requests on the grounds that the requests are overly broad and unduly burdensome, and they fail to describe the documents sought with reasonable particularity. The requests are not limited to reports of potential violations of a particular policy, or to potential violations by Kastens or any other relevant individual; they instead would require production of any report relating to alleged violations of any company policy by any employee, and any communications between Johnson and the Employer regarding the same wide range of events. Such matters could not be relevant to the proceedings at hand, and the request is overly broad on its face in violation of the Board’s Case Handling Manual § 11776.

B. Subpoena Issued to Local Lodge 839

Request No. 2. Request No. 2 seeks all documents describing or memorializing all Union meetings, both internal and with the Employer, concerning grievances filed by or on behalf of Kastens. The request specifically calls for the Union’s written communications and meetings notes.

Documents “describing” or “memorializing” union communications and meeting notes may constitute protected attorney-client communications, attorney work product or protected

union investigations and communications. Accordingly, the Union asserts attorney-client privilege and the attorney work product privilege and withholds any documents or communications protected by those privileges. Further, the Union asserts the union investigation and communications privilege and withholds any documents protected by that privilege.

Request No. 4. Request No. 4 seeks all of Respondent's internal communications concerning the processing of grievances filed by or on behalf of Kastens.

The Union first asserts attorney-client privilege in that these requests seek disclosure of communications between the Union and its counsel, including in-house and outside counsel, regarding these proceedings. The Union also asserts protection for privileged work product such as counsel's notes and research regarding this lawsuit, and documents prepared for these proceedings under the direction of counsel. The Union withholds any documents or communications protected by the attorney-client and the attorney work product privileges. Further, the Union asserts the union investigation and communications privilege and withholds any documents protected by that privilege.

Request No. 6. Request No. 6 seeks all documents obtained during any investigation by the Union into grievances filed by or on behalf of Kastens, specifically requesting Respondent's investigatory notes.

The Union first asserts attorney-client privilege in that these requests seek disclosure of communications between the Union and its counsel, including in-house and outside counsel, regarding these proceedings. The Union also asserts protection for privileged work product such as counsel's notes and research regarding this lawsuit, and documents prepared for these proceedings under the direction of counsel. The Union withholds any documents or communications protected by the attorney-client and the attorney work product privileges.

Further, the Union asserts the union investigation and communications privilege and withholds any documents protected by that privilege.

Request for Relief

WHEREFORE, Respondents request that the foregoing objections be sustained and that the subpoenas duces tecum be revoked in part. Alternatively, Respondents request that the subpoenas be reformed to comport with the National Labor Relations Act, the Board's Rules and Regulations, the Case Handling Manual, and Board Policy.

Dated January 26, 2015.

Respectfully submitted,

/s/ Rod Tanner

Rod Tanner

Texas Bar No. 19637500

rtanner@rodtannerlaw.com

Matt Pierce

Texas Bar No. 24088226

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Fort Worth, Texas 76116-5706

817.377.8833 (phone)

817.377.1136 (fax)

Certificate of Service

The undersigned attorney certifies that on January 26, 2015, he served a copy of the foregoing First Amended Answer on the parties listed below by U.S. First Class Mail.

Daniel L. Hubbell
Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street
Room 8302
St. Louis, Missouri 63103-2829

Susan Wade-Wilhoit
Acting Officer-in-Charge
National Labor Relations Board
Subregion 17
8600 Farley Street, Suite 100
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Michael E. Werner
Counsel for General Counsel
Subregion 17
8600 Farley Street, Suite 100
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Jay M. Rector
Foulston Seifkin LLP
1551 N. Waterfront Parkway, Suite 100
Wichita, Kansas 67206-6605

Ryan Kastens
1500 Tall Tree Road
Apt. No. 35105
Derby, Kansas 67037

/s/ Rod Tanner
Rod Tanner

Exhibit 1

SUBPOENA DUCES TECUM**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

To Custodian of Records, International Association of Machinists and Aerospace Workers, Aero Lodge 839
3917 E. MacArthur Road, Wichita, Kansas 67210

As requested by MICHAEL E. WERNER, Counsel for General Counsel

whose address is 8600 Farley St Ste 100, Overland Park, KS 66212-4677
 (Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge
of the National Labor Relations Board

at Wichita Federal Courthouse, Bankruptcy Courtroom, 401 N MARKET

in the City of WICHITA, KS

on Thursday, February 19, 2015 at 9:00 AM or any adjourned

International Association of Machinists and Aerospace Workers, AFL-CIO
District 70 and Local Lodge 839 (Spirit Aerosystems)

or rescheduled date to testify in 14-CB-133028

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-KUH577

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Overland Park, KS

Dated: January 21, 2015



Paul A. Rame
 Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- a. "Document" means any existing printed, typewritten or otherwise recorded material of whatever character, records stored on computer or electronically, records kept on microfiche or written by hand or produced by hand and graphic material, including without limitation, checks, cancelled checks, computer hard drives, discs and/or files and all data contained therein, computer printouts, E-mail communications and records, any marginal or "post-it" or "sticky pad" comments appearing on or with documents, licenses, files, letters, facsimile transmissions, memoranda, telegrams, minutes, notes, contracts, agreements, transcripts, diaries, appointment books, reports, records, payroll records, books, lists, logs, worksheets, ledgers, summaries of records of telephone conversations, summaries of records of personal conversations, interviews, meetings, accountants' or bookkeepers' work papers, records of meetings or conference reports, drafts, work papers, calendars, interoffice communications, financial statements, inventories, news reports, periodicals, press releases, graphs, charts, advertisements, statements, affidavits, photographs, negatives, slides, disks, reels, microfilm, audio or video tapes and any duplicate copies of any such material in the possession of, control of, or available to the subpoenaed party, or any agent, representative or other person acting in cooperation with, in concert with or on behalf of the subpoenaed party.
- b. "Respondent" means International Association of Machinists and Aerospace Workers, AFL-CIO District 70 and Local Lodge 839 and their officers, representatives, and stewards.
- c. "Employer" means Spirit Aerosystems, Inc.
- e. "Person" or "persons" means natural persons, corporations, limited liability companies, partnerships, sole proprietorships, associations, organizations, trusts, joint ventures, groups of natural persons or other organizations, or any other kind of entity.
- f. "Period covered by this subpoena" means the period from November 1, 2013, through May 23, 2014, and the subpoena seeks only documents from that period unless another period is specified. This subpoena request is continuing in character and if additional responsive documents come to your attention after the date of production, such documents must be promptly produced.
- g. Any copies of documents that are different in any way from the original, such as by interlineation, receipt stamp, notation, or indication of copies sent or received, are considered original documents and must be produced separately from the originals.
- h. If any document covered by this subpoena contains codes or classifications, all documents explaining or defining the codes or classifications used in the document must also be produced.

- i. Electronically stored information should be produced in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- j. All documents produced pursuant to this subpoena should be presented as they are kept in the usual course of business or organized by the subpoena paragraph to which the document or set of documents is responsive.
- k. This subpoena applies to documents in your possession, custody, or control.
- l. If a claim of privilege is made as to any document which is the subject of this subpoena, a claim of privilege must be expressly made and you must describe the nature of the withheld document, communication, or tangible thing in a manner that, without revealing information itself privileged or protected, will enable an assessment of the claim to be made.
- m. Unless otherwise stated, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

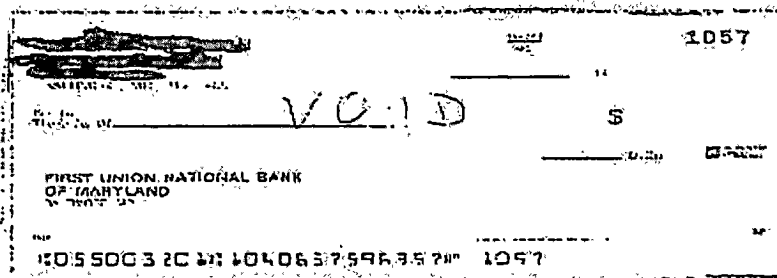
DOCUMENTS TO BE PRODUCED

1. For the period covered by this subpoena, all grievances filed by or on behalf of Ryan Kastens.
2. For the period covered by this subpoena, documents describing and/or memorializing all meetings (internal union meetings and meetings with the Employer) concerning grievances filed by or on behalf of Ryan Kastens, including, but not necessarily limited to, written communications and meeting notes. *P - Privileges*
3. For the period covered by this subpoena, documents describing, constituting, or memorializing all communications between Respondent and the Employer concerning Ryan Kastens and/or grievances filed by or on behalf of Ryan Kastens.
4. For the period covered by this subpoena, documents showing all Respondent's internal communications (including but not necessarily limited to letters, memoranda, emails, text messages, and voice messages) concerning the processing of grievances filed by or on behalf of Ryan Kastens. *☆ - Privileges*
5. To the extent not already provided in response to paragraphs 3 and 4, all documents provided to Respondent by the Employer concerning Ryan Kastens for the period covered by this subpoena.
6. To the extent not already provided in response to other paragraphs of this subpoena, documents obtained during Respondent's investigation of grievances filed by or on behalf of Ryan Kastens during the period covered by this subpoena, along with Respondent's investigatory notes. *Under the privilege*

WITNESS CLAIM INSTRUCTIONS

In order to be paid for appearing as a witness you should bring both your subpoena and the NLRB Form titled CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND MISCELLANEOUS EXPENSES with you at the time you testify. The NLRB attorney will complete PART I - ATTENDANCE CERTIFICATION. You will complete PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES while you are at the hearing. You will receive a witness fee of \$40 for each day or part of a day that you are in attendance under the subpoena. You may also be entitled to be reimbursed for mileage, parking, and other travel expenses if the expenses are determined to be necessary under Federal Travel Regulations. The NLRB will determine which travel related expenses can be reimbursed.

The NLRB will pay your witness claim by making a direct deposit, often referred to as an Electronic Funds Transfer or EFT, into your bank or other financial institution. You may complete PART III - RECEIVING PAYMENT prior to coming to the hearing or you may complete it at the hearing. To complete the payment information you can obtain the routing number and the account number from the bottom left of one of your checks as shown in the example below:



The 9 digit routing number on this check is 055003201.

The account number is 1040637596357.

The last set of digits, 1057, are the check number which we do not need.

Once NLRB processes your claim the amount paid will be shown on your bank statement with a reference of "NLRB Treas 349".

If you do not have an account with any bank or financial institution sign the certification to that fact at the bottom of the form, and you will be paid by check at the address shown in PART I on the front side of the form.

**CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND
MISCELLANEOUS EXPENSES**

PART I - ATTENDANCE CERTIFICATION

1. General Information

a. Witness Name _____ c. Social Security No. _____
b. Witness Address _____ d. Case Name Int. Assoc. of Machinists and Aerospace...
Street _____ e. Case Number 14-CB-133028
City _____ State _____ Zip _____

2. Travel and Attendance Information

a. Dates of Travel From Residence to Case Location: From _____ To _____
b. Dates of Travel From Case Location to Residence: From _____ To _____
c. Dates of Attendance: From _____ To _____

3. NLRB Certification

I certify that the witness named above attended in the case or matter indicated and is entitled to the statutory allowances for attendance and travel.

(Signature)

(Title)

(Date)

PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES

	Rate	No. of Days	Amount Claimed	Totals
1. Attendance Fees				
a. Fact, Pretrial Conference & Detained Witness				
Total Attendance Fees.....				
2. Mileage Allowance Indicate type of privately owned vehicle:				
<input type="checkbox"/> (auto) <input type="checkbox"/> (motorcycle) <input type="checkbox"/> (airplane)	Rate	No. of Miles	Amount Claimed	
a. From Residence to Case Location (and Return)				
b. From Hotel/Motel to Court (or Court to Hotel/Motel)				
Total Mileage Allowance.....				
3. Subsistence Per Diem Rate: _____				
a. Meals	Rate	No. of Days	Amount Claimed	
b. Lodging (Receipt Required)				
Total Subsistence Allowance.....				
4. Miscellaneous Allowance (See Item 8 Below)				
a. Common Carrier			Amount Claimed	
b. Parking Fees, Tolls, Taxi Fares				
Total Miscellaneous Allowances.....				
5. Total Amount Claimed (Items 1-4, Part II).....				
6. Less Outstanding Check or Cash Advances.....				
7. Net Amount Claimed by Witness.....				
8. Use this space to itemize your expenses from Item 4, Part II above.				
<i>Receipts are required for all common carrier, and for all other single items in excess of \$75.00.</i>				

9. Witness Certification

I certify that the above data is correct and that payment has not been received, and that at the time of travel and attendance I ☐ (was) ☐ (was not) a U.S. Government employee and I ☐ (was) ☐ (was not) a citizen of the United States. (If not a citizen, present your Alien Registration Record with this form.) Common carrier cost ☐ (was) ☐ (was not) paid by NLRB.

(Signature)

(You must complete Part III on reverse side)

(Date)

PART III - RECEIVING PAYMENT

Under the Debt Collection Improvement Act of 1996 (reference Public Law 104-134, Section 31001 (X)), the NLRB is required to pay a witness by Electronic Funds Transfer (EFT), which is a direct deposit to your bank, credit union, savings and loan, or other financial institution. The only exception is if you do not have an account with a financial institution. Failure to provide this information may delay or prevent receipt of your claim.

Please provide either a voided check, a deposit ticket (if the routing number is the same as on your check, or fill in the following information:

SSN: _____

ACCOUNT HOLDER: _____

BANK NAME: _____

9 DIGIT ROUTING NUMBER: _____

ACCOUNT NUMBER: _____

TYPE OF ACCOUNT: CHECKING ☐ OR SAVINGS ☐

SIGNATURE: _____

When your claim is processed the direct deposit will be reflected on your bank statement with a reference to NLRB Treas 349.

OR

If you do not have an account with a financial institution sign the following statement.

I certify that I don not have an account with a financial institution or an authorized payment agent.

SIGNATURE: _____

Your payment will be mailed to the address shown in Part I.

Exhibit 2

SUBPOENA DUCES TECUM**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

Custodian of Records, International Association of Machinists and Aerospace Workers, District Lodge
To 70 & Local Lodge 839
3830 S. Meridian, Wichita, Kansas 67217

As requested by MICHAEL E. WERNER, Counsel for General Counsel

whose address is 8600 Farley St Ste 100, Overland Park, KS 66212-4677
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Wichita Federal Courthouse, Bankruptcy Courtroom, 401 N MARKET

in the City of WICHITA, KS

on Thursday, February 19, 2015 at 9:00 AM or any adjourned

International Association of Machinists and Aerospace Workers, AFL-CIO
District 70 and Local Lodge 839 (Spirit Aerosystems)

or rescheduled date to testify in 14-CB-133028

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-KUHZMR

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Overland Park, KS

Dated: January 21, 2015



Paul H. Rame
Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

ATTACHMENT

DEFINITIONS AND INSTRUCTIONS

- a. "Document" means any existing printed, typewritten or otherwise recorded material of whatever character, records stored on computer or electronically, records kept on microfiche or written by hand or produced by hand and graphic material, including without limitation, checks, cancelled checks, computer hard drives, discs and/or files and all data contained therein, computer printouts, E-mail communications and records, any marginal or "post-it" or "sticky pad" comments appearing on or with documents, licenses, files, letters, facsimile transmissions, memoranda, telegrams, minutes, notes, contracts, agreements, transcripts, diaries, appointment books, reports, records, payroll records, books, lists, logs, worksheets, ledgers, summaries of records of telephone conversations, summaries of records of personal conversations, interviews, meetings, accountants' or bookkeepers' work papers, records of meetings or conference reports, drafts, work papers, calendars, interoffice communications, financial statements, inventories, news reports, periodicals, press releases, graphs, charts, advertisements, statements, affidavits, photographs, negatives, slides, disks, reels, microfilm, audio or video tapes and any duplicate copies of any such material in the possession of, control of, or available to the subpoenaed party, or any agent, representative or other person acting in cooperation with, in concert with or on behalf of the subpoenaed party.
- b. "Respondent" means International Association of Machinists and Aerospace Workers, AFL-CIO District 70 and Local Lodge 839 and their officers, representatives, and stewards.
- c. "Employer" means Spirit Aerosystems, Inc.
- e. "Person" or "persons" means natural persons, corporations, limited liability companies, partnerships, sole proprietorships, associations, organizations, trusts, joint ventures, groups of natural persons or other organizations, or any other kind of entity.
- f. "Period covered by this subpoena" means the period from November 1, 2013, through May 23, 2014, and the subpoena seeks only documents from that period unless another period is specified. This subpoena request is continuing in character and if additional responsive documents come to your attention after the date of production, such documents must be promptly produced.
- g. Any copies of documents that are different in any way from the original, such as by interlineation, receipt stamp, notation, or indication of copies sent or received, are considered original documents and must be produced separately from the originals.
- h. If any document covered by this subpoena contains codes or classifications, all documents explaining or defining the codes or classifications used in the document must also be produced.

- i. Electronically stored information should be produced in the form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- j. All documents produced pursuant to this subpoena should be presented as they are kept in the usual course of business or organized by the subpoena paragraph to which the document or set of documents is responsive.
- k. This subpoena applies to documents in your possession, custody, or control.
- l. If a claim of privilege is made as to any document which is the subject of this subpoena, a claim of privilege must be expressly made and you must describe the nature of the withheld document, communication, or tangible thing in a manner that, without revealing information itself privileged or protected, will enable an assessment of the claim to be made.
- m. Unless otherwise stated, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

DOCUMENTS TO BE PRODUCED

1. Documents that will show the identity of the officers, representatives, and stewards of IAM District 70 and Local Lodge 839 for the period covered by this subpoena, along with documents describing the title holders' job duties and responsibilities.
2. For the period covered by this subpoena, all grievances filed by or on behalf of Ryan Kastens.
3. For the period covered by this subpoena, documents describing and/or memorializing all meetings (internal and with the Employer) concerning grievances filed by or on behalf of Ryan Kastens, including, but not necessarily limited to, written communications and meeting notes. - privileges
4. For the period covered by this subpoena, documents describing, constituting, or memorializing all communications between Respondent and the Employer concerning Ryan Kastens and/or grievances filed by or on behalf of Ryan Kastens.
5. To the extent not already provided in response to paragraphs 3 and 4, all documents provided to Respondent by the Employer concerning Ryan Kastens for the period covered by this subpoena.
6. To the extent not already provided in response to other paragraphs of this subpoena, documents obtained during Respondent's investigation of grievances filed by or on behalf of Ryan Kastens during the period covered by this subpoena, along with Respondent's investigatory notes. - privileges
7. To the extent not already provided in response to other paragraphs of this subpoena, all documents relied on by Respondent in processing Ryan Kastens' suspension and discharge grievances, along with documents showing the individuals involved in processing Kastens' grievances during the period covered by this subpoena.
8. For the period covered by this subpoena, documents describing, constituting, or memorializing all communications between the Union and Ryan Kastens. [BRAD] - privileges
9. For the period covered by this subpoena, documents describing, constituting, or memorializing all communications between Howard Johnson and the Employer concerning Ryan Kastens. - privileges
10. For the period covered by this subpoena, documents describing, constituting, or memorializing all communications between Howard Johnson and the Employer concerning Jarrod Lehman.
11. For the period covered by this subpoena, documents constituting or memorializing reports of a potential violation of the Employer's policies received by Howard Johnson. BRAD

★ BR 40

12. For the period covered by this subpoena, all communications between Howard Johnson and the Employer concerning a potential violation of the Employer's policies.

13. For the period from January 1, 2014, until January 31, 2014, all communications between an employee of the Employer and the Union concerning the dissemination of an Employer video.

invest
privilege

14. For the period covered by this subpoena, documents demonstrating Howard Johnson's authority to process and resolve employees' complaints and grievances.

15. For the period from May 23, 2013, until May 23, 2014, documents showing all grievances processed by Respondent concerning the discharge of one or more of the Employer's employees, along with documents showing the reason for the discharge and the resolution of the grievance.

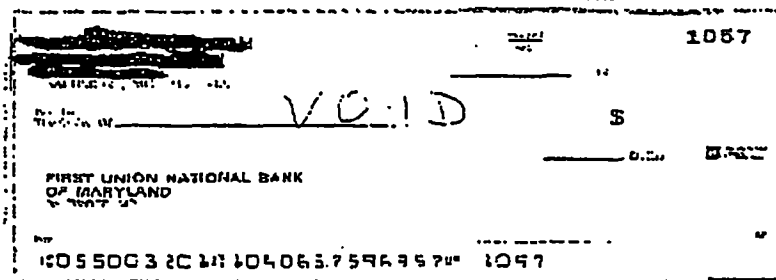
16. For the period from May 23, 2013, until May 23, 2014, documents showing all grievances processed by Respondent concerning the suspension of one or more of the Employer's employees, along with documents showing the reason for the suspension and the resolution of the grievance.

17. In lieu of the items specified in paragraphs 14, 15, and 16, a written summary, signed and sworn to by an officer, compiled from the subpoenaed documents containing all the information called for in those paragraphs may be furnished; provided that all records called for by those paragraphs, and all others used in the compilation of the summary are made available to an agent of the National Labor Relations Board for the purpose of checking the accuracy of the summary, sufficiently in advance of the hearing to enable the accuracy to be verified.

WITNESS CLAIM INSTRUCTIONS

In order to be paid for appearing as a witness you should bring both your subpoena and the NLRB Form titled CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND MISCELLANEOUS EXPENSES with you at the time you testify. The NLRB attorney will complete PART I - ATTENDANCE CERTIFICATION. You will complete PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES while you are at the hearing. You will receive a witness fee of \$40 for each day or part of a day that you are in attendance under the subpoena. You may also be entitled to be reimbursed for mileage, parking, and other travel expenses if the expenses are determined to be necessary under Federal Travel Regulations. The NLRB will determine which travel related expenses can be reimbursed.

The NLRB will pay your witness claim by making a direct deposit, often referred to as an Electronic Funds Transfer or EFT, into your bank or other financial institution. You may complete PART III - RECEIVING PAYMENT prior to coming to the hearing or you may complete it at the hearing. To complete the payment information you can obtain the routing number and the account number from the bottom left of one of your checks as shown in the example below:



The 9 digit routing number on this check is 055003201.

The account number is 1040637596357.

The last set of digits, 1057, are the check number which we do not need.

Once NLRB processes your claim the amount paid will be shown on your bank statement with a reference of "NLRB Treas 349".

If you do not have an account with any bank or financial institution sign the certification to that fact at the bottom of the form, and you will be paid by check at the address shown in PART I on the front side of the form.

**CLAIMS FOR WITNESS ATTENDANCE FEES, TRAVEL, AND
MISCELLANEOUS EXPENSES**

PART I - ATTENDANCE CERTIFICATION

1. General Information

a. Witness Name _____ c. Social Security No. _____
b. Witness Address _____ d. Case Name Int. Assoc. of Machinists and Aerospace...
Street _____ e. Case Number 14-CB-133028
City _____ State _____ Zip _____

2. Travel and Attendance Information

a. Dates of Travel From Residence to Case Location: From _____ To _____
b. Dates of Travel From Case Location to Residence: From _____ To _____
c. Dates of Attendance: From _____ To _____

3. NLRB Certification

I certify that the witness named above attended in the case or matter indicated and is entitled to the statutory allowances for attendance and travel.

(Signature)

(Title)

(Date)

PART II - WITNESS CLAIM FOR FEES AND ALLOWANCES

	Rate	No. of Days	Amount Claimed	Totals
1. Attendance Fees				
a. Fact, Pretrial Conference & Detained Witness				
Total Attendance Fees.....				
2. Mileage Allowance Indicate type of privately owned vehicle:				
<input type="checkbox"/> (auto) <input type="checkbox"/> (motorcycle) <input type="checkbox"/> (airplane)	Rate	No. of Miles	Amount Claimed	
a. From Residence to Case Location (and Return)				
b. From Hotel/Motel to Court (or Court to Hotel/Motel)				
Total Mileage Allowance.....				
3. Subsistence Per Diem Rate: _____				
a. Meals				
b. Lodging (Receipt Required)				
Total Subsistence Allowance.....				
4. Miscellaneous Allowance (See Item 8 Below)			Amount Claimed	
a. Common Carrier				
b. Parking Fees, Tolls, Taxi Fares				
Total Miscellaneous Allowances.....				
5. Total Amount Claimed (Items 1-4, Part II).....				
6. Less Outstanding Check or Cash Advances.....				
7. Net Amount Claimed by Witness.....				
8. Use this space to itemize your expenses from Item 4, Part II above. Receipts are required for all common carrier, and for all other single items in excess of \$75.00.				

9. Witness Certification

I certify that the above data is correct and that payment has not been received, and that at the time of travel and attendance I ☐ (was) ☐ (was not) a U.S. Government employee and I ☐ (was) ☐ (was not) a citizen of the United States. (If not a citizen, present your Alien Registration Record with this form.) Common carrier cost ☐ (was) ☐ (was not) paid by NLRB.

(Signature)

(Date)

(You must complete Part III on reverse side)

PART III - RECEIVING PAYMENT

Under the Debt Collection Improvement Act of 1996 (reference Public Law 104-134, Section 31001 (X)), the NLRB is required to pay a witness by Electronic Funds Transfer (EFT), which is a direct deposit to your bank, credit union, savings and loan, or other financial institution. The only exception is if you do not have an account with a financial institution. Failure to provide this information may delay or prevent receipt of your claim.

Please provide either a voided check, a deposit ticket (if the routing number is the same as on your check, or fill in the following information:

SSN: _____

ACCOUNT HOLDER: _____

BANK NAME: _____

9 DIGIT ROUTING NUMBER: _____

ACCOUNT NUMBER: _____

TYPE OF ACCOUNT: CHECKING ☐ OR SAVINGS ☐

SIGNATURE: _____

When your claim is processed the direct deposit will be reflected on your bank statement with a reference to NLRB Treas 349.

OR

If you do not have an account with a financial institution sign the following statement.

I certify that I don not have an account with a financial institution or an authorized payment agent.

SIGNATURE: _____

Your payment will be mailed to the address shown in Part I.